

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

Jessie J. Barnes, Plaintiff

v.

PETER MASTRANTONIO JR, C.O., RANDY BANKS, C.O., WELBUR, C.O.,  
CHARLES KINARD, C.O., DANNY DAVIS, C.O., ERIC BARSTCH, C.O.,  
JOHN ROGERS, C.O., MICHAEL STAND CO., STEVEN DALUCH, C.O., D. WHITE  
DAMEN CHALK, C.O., DONALD MCINTOSH, C.O., M. VANDEGRIFT, C.O.  
GARY MARSE, SGT., FRANKLIN RAUB, SGT., H. WETZEL, SGT. K. MACKAY, SGT.,  
THOMAS HANNAH, SGT., MARK SHUMAKER, SGT., D. AUGUSTINE, ~~SGT.~~ LT.  
RICHARD DONAHUE, LT., W.E. WILCOX, CAPT., J.P. WAITE, CAPT.  
T.H. GILTNER, DEPUTY SUPERINTENDENT OF SECURITY  
M. MELINKE, SUPERINTENDENT, G.S. GOORD, COMMISSIONER  
A.J. ANNUNCI, DEPUTY COMMISSIONER AND COUNSEL,  
B. CADEL, PLANT MANGER, V. GROVER, INMATE RECORDS COORDINATOR  
PINE CITY AND CHEMUNG COUNTY DISTRICT ATTORNEY OFFICE  
R. ROY, ASSOCIATE COMMISSIONER INSPECTOR GENERAL  
J. ALVES, DOCTOR, BOB BRANDT, REGISTERED NURSE, DEFENDANTS  
W. CZANCZO

03-6637  
CJS

COMPLAINT  
JURY TRIAL  
DEMANDED

PRELIMINARY STATEMENT

THIS IS A CIVIL RIGHTS ACTION COMPLAINT BY JESSIE J. BARNES, A STATE PRISONER  
FOR DAMAGES RELIEF UNDER 42 U.S.C. § 1981, 1983, 1983(3) AND 1986  
ALLEGING EXCESSIVE USE OF FORCE AND DENIAL OF MEDICAL CARE IN  
VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES  
CONSTITUTION AND RETALIATORY HARASSMENT FOR EXERCISING RIGHTS

#1

~~RECEIVED~~ TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES AND LAWSUITS IN BOTH JUDICIAL AND ADMINISTRATIVE FORMS IN VIOLATION OF THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION AND RACIAL DISCRIMINATION CONSPIRACY ON THE BASIS OF RACE OR CLASS IN VIOLATION OF THE FOURTEENTH AMENDMENT EQUAL PROTECTION CLAUSE TO THE UNITED STATES CONSTITUTION.

## JURISDICTION

1. THE COURT HAS JURISDICTION OVER THE PLAINTIFF'S CLAIMS OF VIOLATION OF ~~FEDERAL~~ CONSTITUTIONAL RIGHTS UNDER 42 U.S.C. § 1331 (a) AND 1343.
2. THE COURT HAS SUPPLEMENTAL JURISDICTION OVER THE PLAINTIFF'S STATE LAW TORT CLAIMS UNDER 28 U.S.C. § 1367.

## PARTIES

3. THE PLAINTIFF JESSIE T. BARNES, <sup>WERE</sup> ~~IN~~ INCARCERATED AT <sup>SOUTHPORT</sup> ~~STATE~~ ~~PRISON~~ CORRECTIONAL FACILITY (HEREINAFTER "SOUTHPORT") DURING THE EVENTS DESCRIBED IN THIS COMPLAINT.
4. DEFENDANTS P. MASIRANTONIO JR., R. BANKS, C. KNAPP, WILBUR W. STANLEY, D. DAVIS, E. BARTSCH, D. WHITE, J. ROGERS, M. STAMP, S. PRAWUCH, D. CHALK, D. MCINTOSH, M. VANDERBRIEF ARE CORRECTION OFFICERS EMPLOYED AT SOUTHPORT. THEY ARE SUED IN THEIR INDIVIDUAL CAPACITIES.

5. DEFENDANTS G. MORSE, F. RAUB, H. WETZEL, K. MACKAY, T. HANNAH AND M. SHUMAKER ARE CORRECTIONAL SERGEANTS IN CHARGE OF ROUTINE CARE AND TREATMENT OF SPECIAL HOUSING UNIT PRISONERS AT SOUTHPORT. THEY ARE SUED IN THEIR INDIVIDUAL CAPACITIES.
6. DEFENDANT DONAHUE IS A LIEUTENANT AT SOUTHPORT IN CHARGE OF SECURITY OF SPECIAL HOUSING UNIT PRISONERS AT SOUTHPORT. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
7. DEFENDANTS W. E. WILCOX AND J. WAITE ARE CAPTAINS AT SOUTHPORT CORRECTIONAL FACILITY IN CHARGE OF IMPLEMENTING RESTRAINT AND DEPRIVATION ORDERS AS ACTING DEPUTY SUPERINTENDENT OF SECURITY. THEY ARE SUED IN THEIR INDIVIDUAL CAPACITY.
8. DEFENDANT G. S. BOORD, IS THE COMMISSIONER OF THE DEPARTMENT OF CORRECTIONAL SERVICES (HEREINAFTER "DOCS") IN CHARGE OF ALL OPERATIONS OF DOCS. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
9. DEFENDANT ANTHONY J. ANNUNZI IS DEPUTY COMMISSIONER AND COUNSEL IN CHARGE OF ALL APPEALS FOR THE PRESERVATION OF DOCUMENTATION THROUGHOUT DOCS. HE IS SUED IN HIS INDIVIDUAL CAPACITY.

10. DEFENDANT MICHAEL MCGINNIS IS THE SUPERINTENDENT OF SOUTHPORT CORRECTIONAL FACILITY IN CHARGE OF GRIEVANCE INVESTIGATIONS FILED BY PRISONERS AGAINST STAFF AT SOUTHPORT STAFF PURSUANT TO 7 NYCRR 701.11 (b)(2), AS WELL AS STATUTORY AUTHORITY TO PROPERLY TRAIN, SUPERVISE AND DISCIPLINE ALL SOUTHPORT STAFF FOR THEIR MISCONDUCT. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
11. DEFENDANT BARRY CADEL IS THE PLANT MANAGER AT SOUTHPORT CORRECTIONAL FACILITY IN CHARGE OF ALL SOUTHPORT MAINTENANCE. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
12. DEFENDANT V. GROVER IS THE RECORDS COORDINATOR AT SOUTHPORT IN CHARGE OF PRESERVING ALL VIDEO TAPE EVIDENCE AT SOUTHPORT. SHE IS SUED IN HER INDIVIDUAL CAPACITY.
13. DEFENDANT PINE CITY IS THE MUNICIPALITY OF TOWN OF SOUTHPORT IN CHARGE OF ESTABLISHING POLICY. IT IS SUED IN ITS INDIVIDUAL AND OFFICIAL CAPACITY.
14. DEFENDANT CHEMUNG COUNTY DISTRICT ATTORNEY'S OFFICE IS IN CHARGE OF BRINGING CRIMINAL CHARGES AGAINST ALL POSSIBLE CRIMINAL ACTS COMMITTED BY PERSONS IN CHEMUNG COUNTY. CHEMUNG COUNTY IS SUED IN ITS INDIVIDUAL AND OFFICIAL CAPACITY.

15. ~~THE~~ DEFENDANT JOHN ALVES, IS THE MEDICAL DIRECTOR OF SOUTHPORT AND IS RESPONSIBLE FOR ENSURING THE PROVISIONS OF MEDICAL CARE FOR PRISONERS' INCARCERATED AT SOUTHPORT AND SPECIALIZED TREATMENT OR EVALUATION OUTSIDE PRISON FOR ALL PRISONERS. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
16. DEFENDANT BOB BRANDT IS A REGISTERED NURSE IN CHARGE OF ROUTINE SICK CALL AND MEDICAL CARE FOR PRISONERS' AT SOUTHPORT. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
17. DEFENDANT RICHARD RAY IS ASSOCIATE COMMISSIONER INSPECTOR GENERAL OF DOCS IN CHARGE SPECIAL INVESTIGATIONS OF STAFF MISCONDUCT. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
18. DEFENDANT THOMAS H. GILNER, IS DEPUTY SUPERINTENDENT OF SECURITY AT SOUTHPORT IN CHARGE OF IMPLEMENTATION OF RESTRAINT, SHIELD AND DEPRIVATION ORDERS UPON SOUTHPORT PRISONERS. HE IS SUED IN HIS INDIVIDUAL CAPACITY.
19. ALL DEFENDANTS HAVE ACTED, AND CONTINUE TO ACT, UNDER COLOR OF STATE LAW AT ALL TIMES RELEVANT TO THIS COMPLAINT.

## FACTS

20. THE PLAINTIFF JESSIE J. BARNES FILED A LAWSUIT THAT BECAME THE FOCAL POINT CONCERNING STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES (HEREINAFTER DOCS) USE

OF ITS "RESTRICTED DIET LOAF" TO INFlict CRUEL AND UNUSUAL PUNISHMENT UPON HIM CAUSING DUES TO COME UNDER SIGNIFICANT PUBLIC SCRUTINY BY NEW YORK TIMES NEWSPAPER IN AUG. OR SEPT. 2002, "THE VIEW" TALK SHOW ON ABC AND OTHER NEWS SEGMENTS AS A RESULT <sup>OF</sup> MATTER OF BARNES V. MCGINNIS et al. INDEX NO. 1030-2002 (FEB. 2002 ISSUING AN INJUNCTION PROHIBITING DUES AND ALL ITS AGENTS FROM ISSUING PLAINTIFF "RESTRICTED DIET").

21 ON OR ABOUT JULY 13, 2002 ATTORNEY FOR THIRTY-ONE (31) DEFENDANTS INCLUDING P. MASTRANTONIO JR., MR. GARY M. LEVINE, ASSISTANT ATTORNEY GENERAL OF COUNSEL MADE AN APPEARANCE FOR DEFENDANTS IN BARNES V. ALVES et al. 01-CV-6559 (DOCKET #13).

22. AFTER RECEIVING NOTICE ON OR ABOUT JULY 13, 2002 OF BEING PARTIES TO BARNES V. ALVES et al. 01-CV-6559 (SEE DOCKET #27 DECISION ON PLAINTIFFS' 104 PAGES PROSE SUPPLEMENTAL COMPLAINT NAMING FIFTY-ONE (51) MORE DEFENDANTS INCLUDING P. MASTRANTONIO JR.) MANY OF THE DEFENDANTS NAMED PROCEEDED TO FILE NUMEROUS FALSE MISBEHAVIOR REPORTS IN RETALIATION, AND MALICIOUSLY SYSTEMATICALLY ABUSE PLAINTEFF

23. ON SEPT. 4, 2002 UPON P. MASTRANTONIO JR. COMING IN CONTACT WITH PLAINTIFF TO ESCORT HIM TO A CALL OUT

FOR AN URINALYSIS TEST FOR FIRST TIME SINCE BEING NOTIFIED ON OR ABOUT JULY 13, 2002 OF HES P. MASTRANTONIO JR. BEING NAMED AS DEFENDANT TO BARNES V ALVES 01-CV-6559, THE PLAINTIFF IS BRUTALLY BEATEN WHILE DEFENSELESS IN FULL MECHANICAL RESTRAINTS.

24. DEFENDANT P. MASTRANTONIO JR. FILED A FALSE MISBEHAVIOR REPORT IN RETALIATION AGAINST PLAINTIFF FOR PENDING LITIGATION ALLEGING THE PLAINTIFF WHILE IN MECHANICAL RESTRAINTS TURNED WITH THREE (3) DEFENDANTS POSITIONED AROUND HIM AND STRUCK P. MASTRANTONIO JR. THE FACE, AS WELL AS ALLEGING THAT THE PLAINTIFF COMMITTED THE ATROCIOUS ACT OF SPITTING ON HEM P. MASTRANTONIO JR. ON UNSURVEILLANCED CORRIDOR OF B-1-GALLERY.

25. THE PLAINTIFF FILED NUMEROUS GRIEVANCES SPT-24724-02, SPT-24885-02, SPT-24915-02, SPT-24951-02, SPT-25086-02, SPT-25206-02, SPT-25610-02 AGAINST P. MASTRANTONIO JR. FOR ACTS OF VIOLENCE OR THREATS OF PERPETRATED AGAINST PLAINTIFF FOLLOWING SEPT. 4, 2002 INCIDENT AND DURING PENDENCY OF BARNES V ALVES 01-CV-6559.

26. ON OCT. 22, 2003 THE PLAINTIFF WAS ESCORTED TO A HEARING BY DEFENDANT P. MASTRANTONIO JR. FOR FIRST TIME EVER AT SOUTHPORT CORRECTIONAL FACILITY AFTER PLAINTIFF HAD FILED GRIEVANCES SPT-24724-02, SPT-24915-02 AND SPT-24951-02 IN MONTH OF SEPT. AND OCT. 2003 NAMING DEFENDANT P. MASTRANTONIO JR. AS PARTY.

27. FOLLOWING PLAINTIFF COMPLAINTING TO HEARING OFFICER DEFENDANT DENIAL OF THREATS OF VIOLENCE DURING HEARING ISSUED TO PLAINTIFF BY DEFENDANT P. MASIRANTONIO JR, PRIOR TO ENTERING HEARING ROOM THAT IS RECORDED ON OCT. 23, 2003 HEARING TAPE.
28. THE PLAINTIFF EXITED HEARING ROOM ON OCT. 22, 2003 FOR PURPOSE OF RETURNING TO HIS CELL B-1-17.
29. ON OCT. 22, 2003 AS PLAINTIFF ENTERED B-1-6 GALLERY OUT OF THE VIEW OF B-BLOCK SURVEILLANCE CAMERA MONITORING ALL MOVEMENT IN FRONT OF B-1-6 GALLERY P. MASIRANTONIO JR INITIATED A USE OF FORCE UPON PLAINTIFF WHILE HE WAS TOTALLY DEFENSELESS IN FULL MECHANICAL RESTRAINTS OF WAIST-CHAIN, ~~RESTRAINT~~ HANDS - CUFFED BEHIND THE BACK AND LEG IRONS.
30. DEFENDANT P. MASIRANTONIO JR FILED AN IDENTICAL FALSE MISBEHAVIOR REPORT IN RETALIATION FOR THE PLAINTIFF ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT OF REDRESS OF GRIEVANCES AND LAWSUITS IN BOTH ADMINISTRATIVE AND JUDICIAL FORMS, ALLEGING THE PLAINTIFF WHILE DEFENSELESS IN FULL MECHANICAL RESTRAINTS COMMITTED THE SAME ATROCIOUS ACT ON THIS OCT. 22, 2003 AS SEPT. 4, 2003 OF SPITTING ON P. MASIRANTONIO JR ON UNSURVEILLANCED CORRIDOR OF B-1-6 GALLERY.



31. ON JAN. 31, 2003 THE PLAINTIFF WERE ESCORTED TO NOW EXDUNBED ~~HE~~ HEARING FOR JAN. 19, 2003 MD BEHAVIOR REPORT WRITTEN BY DEFENDANT HERSH.
32. UPON PLAINTIFF ENTERING HEARING ROOM ON JAN. 31, 2003 THE HEARING OFFICER BARRY CADEL ATTEMPTED TO MAKE AN OFF THE RECORD PLEA AGREEMENT WITH PLAINTIFF IF HE WERE TO ENTER A PLEA OF GUILTY, BECAUSE DEFENDANT B. CADEL STATED THE PLAINTIFF WERE IN PROCESS OF BEING DRAFTED OUT OF SOUTHWEST CORRECTIONAL FACILITY.
33. THE PLAINTIFF REJECTED SAID PLEA OFFER FROM DEFENDANT B. CADEL WHOM BECAME ENRAGED SIMULTANEOUSLY EJECTING PLAINTIFF FROM HEARING ROOM IN RETALIATION FOR PLAINTIFF ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT IN BARNES V. ALVES et al 01-CV-6559 NAMING CADEL AS ONE OF INITIAL (31) THIRTY-ONE DEFENDANTS TO FURTHER AID AND ABETT SENSELESS PHYSICAL TRANSGRESSIONS AGAINST THE PLAINTIFF DEFENDANTS CADEL, KINARD, NURSE AND WILBUR ACTIVELY PREMEDITATED.

OCT. 22, 2002 RETALIATION TRANSGRESSIONS  
AND EXCESSIVE USE OF FORCE CONSPIRACY  
BY P. MASTRANTONIO JR. AND DEFENDANTS

34. ON OCT. 22, 2003 P. MASTRANTONIO JR. AND VANDELGRIFF APPROACHED MY CELL AND ASKED THE PLAINTIFF WAS HE GOING TO ATTEND TIER II DISCIPLINARY HEARING BEING CONDUCTED BY DEFENDANT DOWATHE.

35. THE PLAINTIFF REQUESTED THAT DEFENDANT VANDEGRIFT AND P. MASTRANTONIO JR. GET SGT. TO ESCORT HIM BECAUSE OF P. MASTRANTONIO JR.'S VIOLENT PROPENSITIES.
36. P. MASTRANTONIO JR. STATED: "YOU DUSY YOU SCARED."
37. DEFENDANT VANDEGRIFT STATED "COME ON JESSIE YOU ARE NOT ONE OF THOSE DUSY NIGGERS ARE YOU WITH A BIG MOUTH."
38. DEFENDANT LEFT PLAINTIFF'S CELL AND RETURNED WITH DEFENDANT SGT. WETZEL.
39. THE PLAINTIFF EXITED HIS CELL AND WAS PLACED IN FULL MECHANICAL RESTRAINTS OF HAND CUFFS BEHIND THE BACK WAIST CHAIN AND LEG-IRONS.
40. AS THE PARTIES PROCEEDED DOWN "GALLERY TOWARD HEARING ROOM DEFENDANT P. MASTRANTONIO JR. STATED "I AM GOING TO KILL YOUR BLACK ASS."
41. THE PLAINTIFF UPON ENTERING HEARING ROOM ON HEARING RECORD INFORMED DEFENDANT DONAHUE HEARING OFFICER OF THE THREATS P. MASTRANTONIO JR. HAD ISSUED TO HIM AS PARTIES WAS WALKING DOWN B-1 GALLERY TO HEARING ROOM.

42. DEFENDANT DONAHUE BECAME ALITATED AND ADJOURNED HEARING.
43. DEFENDANT DONAHUE THEN STATED TO THE PLAINTIFF OFF HEARING RECORD "YOU SHOULD HAVE STAYED IN YOUR CELL YOU STUPID NIGGER, CAUSE YOU WILL BE LUCKY TO MAKE IT BACK ALIVE DUMMY."
44. THE PLAINTIFF EXITED HEARING ROOM AND WAS INSTRUCTED TO STAND OUTSIDE HEARING ROOM DOOR AND FACE WALL.
45. AS PARTIES WAS STANDING OUTSIDE HEARING ROOM DEFENDANT P. MASTRANTONIO JR. WAS STANDING BEHIND THE PLAINTIFF STATING "YOUR ASS IS MORE NIGGER."
46. DEFENDANT BANKS WAS STANDING AT DOOR TO B-BLOCK RECREATION AREA REPEATEDLY STATING "JESSE IS A PUSSY OH MY LEG."
47. DEFENDANT DONAHUE EXITED HEARING ROOM AND STATED "TAKE THE PIECE OF SHIT BACK TO HIS CELL."
48. THE PLAINTIFF TURNED AND WALKED TOWARD B-1-GALLERY SGT. RAMB WAS STANDING IN FRONT OF GALLERY AND SGT. WETZEL WAS STANDING RIGHT AT DOOR WAY FOR B-1-GALLERY.

49. THE FULL MECHANICALLY RESTRAINT PLAINTIFF WITH HANDS CUFFED BEHIND HIS BACK WAIST-CHAIN AND SHACKLED FEET WALKED THROUGH GATE ONTO UNSURVEILLANCED CORRIDOR OF B-1-GALLERY.
50. AS THE PARTIES APPROACHED SECOND SHOWER DEFENDANT P. MASTRANTONIO JR. STEPPED BACK BEHIND PLAINTIFF AND IN A MERCIFULNESS CRUEL AND UNUSUAL COLD-BLOODED VINDICTIVE APPLICATION OF MALICIOUS EXCESSIVE USE OF FORCE UPON PLAINTIFF THAT WERE SHOCKINGLY REPUGNANT TO THE CONSCIENCE OF MANKIND DELIBERATELY GRABBED SHACKLES HIDEOUSLY WITH WANTON AND RECKLESS DISREGARD SNATCHED THE DEFENSELESS MECHANICALLY RESTRAINT PLAINTIFF OFF HIS FEET THOUGHTLESSLY CARELESSLY CAUSING HIS BODY TO COME CRASHING DOWN ON CONCRETE FLOOR HEAD FIRST JARRING PLAINTIFF'S BODY INFLECTING HEAD AND NECK PAINS, BODY ACHES & PAINS, BRIEF BLURRED VISION AND DIZZINESS.
51. DEFENDANT P. MASTRANTONIO JR. POUNCED ON THE PLAINTIFF AND BEGAN TO MALICIOUSLY AND SADISTICALLY CHOKE THE PLAINTIFF USING HIS HAND TO SQUEEZE PLAINTIFF'S ~~NECK~~ THROAT.
52. DEFENDANT P. MASTRANTONIO JR. WAS SCREAMING "I DON'T CARE I WILL KILL YOU BITCH."

53. DEFENDANT VANDEGRIFT IN A DEPRAVED STATE OF MIND THAT WERE SHOCKING TO THE CONTEMPORARY STANDARDS OF DECENCY APPLIED WANTON AND MALICIOUS EXCESSIVE FORCE UPON PLAINTIFF USING A FIGURE FOUR-LEG LOCK CAUSING THE PLAINTIFF KNEE TO SWELL LIKE A BALLOON AND PROHIBITING HIM FROM WALKING ON IT FOR OVER A MONTH.
54. THE PLAINTIFF'S WAS PLEADING FOR HIS LIFE AND SCREAMING IN PAIN.
55. DEFENDANTS RAUB AND WETZEL WATCHED THE ENTIRE INCIDENT WITH NO REGARDS FOR PLAINTIFF'S LIFE AND DEFENDANTS P. MASIRANENJO JR AND VANDEGRIFT RUTHLESS COLD-BLOODED ASSAULT UPON ~~THE~~ PLAINTIFF WHOM WAS COMPLETELY DEFENSELESS IN FULL MECHANICAL RESTRAINTS, ACQUIESCING IN THE APPLICATION OF DEFENDANTS FORCE USED INTENTIONALLY FAILING TO INTERVENE.
56. DEFENDANTS BANKS, P. MASIRANENJO JR, D. DAVES, E. BARTSCH, S. PALUCH, M. STAMP AND J. ROGERS WERE ALL SCREAMING LOUD IN DEPRAVED FIT OF RAGE EACH ASSAULTING THE PLAINTIFF WITH DEROGATORY EPITHETS AS ALL THESE DEFENDANTS EXERCISED WANTON AND MALICIOUS EXCESSIVE USE OF FORCE PLAINTIFF PUNCHING STOMPING AND KICKING ALL ABOUT HIS FACE AND BODY AS PLAINTIFF LAY ON FLOOR DEFENSELESS IN FULL

MECHANICAL RESTRAINTS IN AN APPLICATION<sup>OF FORCE</sup> THAT WERE REPUGNANTLY SHOCKING TO THE CONTEMPORARY STANDARDS OF DECENCY ON PLAINTIFF.

57. DEFENDANTS RAUB, WETZEL, W. LIANCIO, D. WHITE AND D. CHALK ACQUIESCED IN THE APPLICATION OF DEFENDANTS MASTRANTONIO, BANKS, DAVIS, BARTSCH, PALUCH, STAMP AND ROGERS BRUTAL DISCHARGE OF EXCESSIVE FORCE UPON PLAINTIFF AS HE LAY DEFENSELESS IN FULL MECHANICAL RESTRAINTS ON SHOWER FLOOR INTENTIONALLY FAILING TO INTERVENE.

58. THE PLAINTIFF IS THEN DRAGGED IN SHOWER WHERE DEFENDANT BANKS STRUCK HIM IN THE FACE SEVERAL TIMES WITH A CLOSED FIST, DEFENDANT ~~BANKS~~ MASTRANTONIO JR STOMPED HIM AND D. DAVIS KICKED HIM IN HIS TESTICLES AS HE LAY DEFENSELESS ON SHOWER IN FULL MECHANICAL RESTRAINTS.

59. AS THE PLAINTIFF LAY IN SHOWER ON FLOOR DEFENDANTS MCINTOSH AND DONAHUE APPROACHED THE SHOWER TOGETHER AND INDIVIDUALLY ON SEVERAL OCCASIONS ASSAULTING PLAINTIFF WITH DEROGATORY EPITHETS TO EFFECT OF "YOU ARE A PUSSY ALWAYS SCREAMING LIKE A BITCH WHEN YOU GET YOU ASS KICKED."

60. DEFENDANTS D. DAVIS AND A <sup>BARTSCH</sup> ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~  
~~XXXXXXXXXX~~ IN A SLY DEVIZANT NEEDLESS SINISTER  
 APPLICATION OF EXCESSIVE USE OF FORCE TACTIC  
 REMOVED PLAINTIFF FROM SHOWER PULLING AND TWISTING  
 CUFFS WHILE USING THEIR FOREARMS AS LEVERAGE ON  
 PLAINTIFF'S RIB-CAGE TO PULL PLAINTIFF'S ELBOWS  
 OUTWARD AND WICKEDLY MALICIOUSLY AND SADISTICALLY  
 PUSHING THEIR FOREARMS INTO PLAINTIFF'S RIB-CAGE  
 TO INFLICT THE HIGHEST DEGREE OF PAIN AND SUFFERAGE  
 FROM INTENSE TENSION OF MECHANICAL RESTRAINTS ~~ON~~  
 APPLIED ON PLAINTIFF'S BODY.

61. DEFENDANT SHUMAKER ACQUIESCED IN THE APPLICATION  
 OF DEFENDANTS DAVIS AND BARTSCH EXCESSIVE USE OF  
 FORCE FALLING TO INTERVENE OR DETER SUCH SLY  
 SINISTER USE OF FORCE TACTICS.

62. AS A RESULT OF DEFENDANTS RETALIATION ASSAULT  
 CONSPIRACY THE PLAINTIFF WAS UNABLE TO WALK ON HIS  
 RIGHT LEG FOR NEARLY 60 DAYS, SORE THROAT, SORE NECK,  
 AGGRAVATED MULTIPLE PRE-EXISTING MENTAL AND PHYSICAL  
 INJURIES, AGGRAVATING CUFF NEUROPATHY CONDITION, BACK PAINS,  
 HUMILIATION & DEGRADATION, MENTAL DURESS, PRESSURE, STRESS &  
 STRAIN, ABDOMINAL PAINS, TESTICAL PAINS, JAW PAINS, FACIAL  
 PAINS, CHEST PAINS, DIFFICULTY CONCENTRATING AND COMMUNICATING,  
 BODY ACHES & PAINS, DIZZINES, BLURRED VISION, SIDE PAINS,  
 GROIN PAINS, TESTICAL PAINS, RECTAL PAINS, SHOULDER PAINS,

AGGRAVATING PRE-EXISTING MILD DEPRESSIVE CONDITION, AGGRAVATING DISTAL TUBULIA AND VICARIOUS VEIN CONDITIONS IN BOTH LEGS, MODERATE POST-TRAUMATIC STRESS DISORDER, PARANOIDA, ~~NERVOUS~~ NERVOUS DISORIENTATION, NIGHTMARES, SERIOUS MENTAL PAINS, LASTING HYPERTENSION, DIFFICULTY WITH AUTHORITY, LASTING EMOTIONAL DISTRESS, DISTRUSTFUL PARANOIDA FOR ALL LAW ENFORCEMENT OFFICIALS, ANXIETY ATTACKS, MENTAL ANGUISH, COLD SWEATS, SEVERE AVOIDANCE PROBLEMS, FEELINGS OF USELESSNESS, SHORT TERM MEMORY LOSS, DEPRESSION STRESS GASTROINTESTINAL COMPLICATION, FEAR OF WHAT OTHERS THINK, FEELINGS OF EXTREME GUILT, INFLECTION OF EMOTIONAL DISTRESS, CHRONIC INSECURE DEPRESSION SYNDROME, INSOMNIA, SLEEP PROBLEMS, MUSCLE TENSION, DECREASE APPETITE, FATIGUE EASY, LACK OF MOTIVATION, HEAD-ACHES AND FEELINGS OF INADEQUACY.

JAN. 31 2003

RETALIATION EXCESSIVE  
USE OF FORCE CONSPIRACY

63. DEFENDANT CAPEL STATED "WE HAVE BEEN THROUGH THIS BEFORE, I AM AWARE OF YOUR LAW-SUIT AND DON'T CARE ABOUT IT, YOU ARE NOT GETTING ANY ASSISTANT."
64. DEFENDANT CAPEL WITHOUT JUST CAUSE ~~REPEATEDLY~~ ABRUPTLY STATED "I AM EJECTING YOU FROM HEARING ROOM."



65. DEFENDANT'S KNAPP AND MORSE WAS STANDING AT DOOR LOOKING THROUGH WINDOW.
66. DEFENDANT'S KNAPP AND MORSE BARRED INTO HEARING ROOM AND GRABBED THE PLAINTIFF.
67. DEFENDANT'S WILBUR GRABBED PLAINTIFF AROUND NECK.
68. DEFENDANT'S KNAPP AND MORSE SQUEEZE THE HANDCUFFS SO THEY WOULD TIGHTEN UP AND PINCH THE NERVES IN PLAINTIFF'S HANDS AGGRAVATING PRE-~~EXISTING~~ EXISTING CUFF NEUROPATHY CONDITION.
69. DEFENDANT CAPEL WAS LAUGHING.
70. DEFENDANT'S KNAPP AND WILBUR BEGAN MALICIOUSLY AND SADISTICALLY TWISTING THE CUFFS TO INFLECT SENSELESS PAIN ON PLAINTIFF.
71. THE PLAINTIFF STATED "GET MORSE TELL THEM TO STOP TWISTING CUFFS CAUSE THEY ARE HURTING MY HANDS."
72. DEFENDANT MORSE STATED "SHUT-UP AND STOP YOUR WHINING, IF YOU DON'T LIKE IT DO SOMETHING ABOUT IT."

73. DEFENDANTS MORSE, KNAPP, WILBUR AND CADEL ALL PURPOSEFULLY INTENTIONALLY FAILED TO CALL MEDICAL STAFF TO EXAMINE PLAINTIFF OR TAKE USE OF FORCE PHOTOGRAPHS DEPICTING BRUISES ON PLAINTIFF'S WRISTS AND HIS SWOLLEN HANDS OR FILE ANY REPORTS IN ACCORDANCE WITH PROVISIONS OF DEPARTMENT POLICY #4944 IN A CONSPIRACY TO COVER UP AND CONCEAL PREMEDITATE SENSELESS EXCESSIVE FORCE USED UPON PLAINTIFF.

74. AS A RESULT OF THIS JAN. 31, 2003 ASSAULT DEFENDANTS INFLICTED FURTHER DAMAGE TO PLAINTIFF'S CUFF NEUROPATHY CONDITION, SUICIDAL IDEATIONS, SORE THROAT, NECK PAINS, AGGRAVATING MULTIPLE PRE-EXISTING MENTAL AND PHYSICAL INJURIES, MENTAL DURESS, PRESSURE STRESS & STRAIN, ABDOMINAL PAINS, DIFFICULTY CONCENTRATING AND COMMUNICATING, RECTAL PAINS, AGGRAVATING PRE-EXISTING MILD DEPRESSIVE CONDITION, MODERATE POST-TRAUMATIC STRESS DISORDER, PARANOIA, NERVOUS DISORIENTATION, NIGHTMARES, SERIOUS MENTAL PAINS, LASTING HYPERTENSION, DIFFICULTY WITH AUTHORITY, LASTING EMOTIONAL DISTRESS, DISTRUSTFUL PARANOIA FOR ALL LAW ENFORCEMENT OFFICIALS, ANXIETY ATTACKS, MENTAL ANGUISH, COLD SWEATS, SEVERE AVOIDANCE PROBLEMS, FEELINGS OF USELESSNESS, SHORT TERM MEMORY LOSS, DEPRESSION-STRESS GASTROINTESTINAL COMPLICATION, FEAR OF WHAT OTHERS THINK, FEELINGS OF EXTREME GUILT, INFLECTION OF EMOTIONAL DISTRESS, CHRONIC INSECURE DEPRESSION SYNDROME, INSOMNIA, SLEEP PROBLEMS, ~~HEAD~~ HEAD-ACHES AND LACK OF MOTIVATION.

SUPERVISORY OFFICIALS  
GROSS NEGLIGENT MANAGEMENT  
AND DELIBERATE INDIFFERENCE  
CUSTOM OR POLICY

75. DEFENDANT MCGINNIS'S GROSS NEGLIGENT MANAGEMENT SUPERVISION OF FAILING TO PROPERLY TRAIN, SUPERVISE OR DISCIPLINE SUBORDINATE DEFENDANTS P. MASTRANTONIO JR., BANKS, WILLBUR, KNAPP, DAVIS, BARSTEN, ROGERS, STAMP, PALUCH, CHALK, MCINTOSH, CIANZO, VANDERGRIFT, MORSE, RAUB, WETZEL, MACKAY, HANNAN, SHUMAKER, CREATING A POLICY OR CUSTOM UNDER WHICH UNCONSTITUTIONAL PRACTICES OCCURRED, OR ALLOWED SUCH A POLICY OR CUSTOM TO CONTINUE: (1) BEING ON NOTICE OF THE PLAINTIFF ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT IN BARNES V. ALVES et al. 01-CV-6559 AND THIS CONDUCT BEING THE MOTIVATING FACTOR BEHIND DEFENDANT'S RETALIATION; (2) THE INTERNAL INVESTIGATION OF PLAINTIFF RETALIATION HARASSMENT GRIEVANCES ~~AND~~ AND EXCESSIVE USE OF FORCE AGAINST DEFENDANTS MASTRANTONIO JR., BANKS, AND BRANDT 24724, 24743, 24778, 24885, 24915, 24951, 25086, 25206 AND 25610, AS WELL AS WRITTEN COMPLAINTS DATED: OCT. 29, 2002 AND DEC. 19, 2002 TO Supt MCGINNIS; (3) SEE ALSO COMPLAINTS FROM PLAINTIFF'S COUNSEL OF RECORD MRS. SARAH B. FULLER, STAFF ATTORNEY FOR PRISONERS' LEGAL SERVICES OF NEW YORK REPRESENTING THE PLAINTIFF IN BARNES V. MCGINNIS et al. INDEX NO. 2002-1030 DATED OCT. 29, 2002, NOV. 13, 2002, NOV. 18, 2002 AND NOV. 18, 2002 COMPLAINTING OF THE ABUSE OF PLAINTIFF BY DEFENDANT MASTRANTONIO JR. EVIDENCED AN EGBREIOUS LACK OF SUPERVISION; (4) A LACK OF

SUPERVISION AND TRAINING WAS INVOLVED IN THE CONTINUOUS BRUTAL BEATINGS THE PLAINTIFF RECEIVED IN RETALIATION FOR HIS ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT FROM DEFENDANTS BANKS AND D. MASTRANTONIO WHILE IN FULL MECHANICAL RESTRAINTS ON CONSECUTIVE OCCASIONS;

(5) DEFENDANTS ALVES AND BRANDT RETALIATORY

DELIBERATE INDIFFERENCE TO THE PLAINTIFF'S SERIOUS MEDICAL NEEDS AND INTENTIONALLY CURTAILING ENTRY OF INJURIES TO PLAINTIFF IN HIS AMBULATORY HEALTH RECORDS DIRECTLY SUBJECTED PLAINTIFF TO EXCESSIVE FORCE.

76. DEFENDANT MCGINNIS WAS PLACED ON NOTICE OF VINDICTIVE VIOLENT PROPENSITIES AND ABUSIVE CONDUCT BY DEFENDANT D. MASTRANTONIO JR. OF RUTHLESSLY WICKEDLY USING UNSURVEILLANCED CORRIDOR OF B-1 GALLERY TO STAGE BRUTAL PHYSICAL ATTACKS ON DEFENSELESS FULL MECHANICALLY RESTRAINED ~~IN~~ PLAINTIFF IN VENGEFUL RETALIATION FOR THE PLAINTIFF'S CONTINUOUSLY ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT RIGHT TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES 24724, 24915, 25086, 25206, 25610 AND LAWSUITS ~~IN~~ BARNES V. ALVES 01-CV-6559, BARNES V. MCGINNIS INDEX NO. 2002-1030.

77. THE RIGHT OF PLAINTIFF TO SEEK REDRESS OF GRIEVANCES IN BOTH JUDICIAL AND ADMINISTRATIVE FORMS IS "AMONGST THE MOST PRECIOUS OF THE LIBERTIES SAFEGUARDED BY THE BILL OF RIGHTS."

78. IN LIGHT OF FACT DEFENDANT P. MASTRANTONIO JR FILING IDENTICAL WRITTEN ~~RE~~ REPORTS WITH DEFENDANT MCGINNIS IN CONNECTION WITH 9/4/02 AND 10/22/02 EXCESSIVE USE OF FORCE INCIDENTS. SEE USE OF FORCE REPORTS 9/4/02 AND 10/22/02.
79. DEFENDANT MCGINNIS AS PARTY TO BARNES V. ALVES 01-CV-6559 AND BARNES V. MCGINNIS INDEX NO. 2002-1030 IN RETALIATION HAD A SUFFICIENTLY CULPABLE STATE OF MIND IN HIS FAILURE TO PROTECT PLAINTIFF FROM SUBSTANTIAL RISK OF ~~INJURY~~ SERIOUS HARM ON UNSURVEILLANCED CORRIDOR BY DEFENDANT P. MASTRANTONIO JR. AFTER BEING PLACED ON NOTICE OF 9/4/02 INCIDENT THROUGH COMPLAINTS AND GRIEVANCE 24724 AND HE DEFENDANT MCGINNIS DISREGARDED THE EXCESSIVE RISK TO PLAINTIFF'S HEALTH OR SAFETY ON OCT. 22, 2002. SEE GRIEVANCE SPI-24724 (ACTION REQUESTED: "(1) ALL MOVEMENT OUTSIDE MY CELL BE RECORDED ON HAND-HELD CAMCORDER.")
80. DEFENDANT MCGINNIS HAS BEEN PLACED ON NOTICE OF THE RETALIATORY AND ABUSIVE CONDUCT OF P. MASTRANTONIO JR. BY NUMEROUS COMPLAINTS AND GRIEVANCES OVER MANY MONTHS, BUT HAS FAILED TO TAKE DISCIPLINARY ACTION AGAINST THEM OR OTHERWISE TO CONTROL THEIR BEHAVIOR. SEE COMPLAINTS FROM PRISONERS' LEGAL SERVICES OF NEW YORK SARAH BETSY FULLER, ATTORNEY FOR PETITIONER IN MATTER OF BARNES V. MCGINNIS DATED OCT. 24, 2002 AND NOV. 13, 18, 2002. ~~SEE~~

81. DEFENDANT MCGINNIS CANNOT CLAIM THAT HE DID NOT "PERSONALLY KNOW, ACQUIESCE OR PARTICIPATE IN ANY DEPRIVATION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS."
82. DEFENDANT MCGINNIS'S INADEQUATE INVESTIGATIONS OF PERFORMANCES EVIDENCED A PURPOSEFUL TOLERANCE OF CIVIL RIGHTS VIOLATIONS BY EMPLOYEES.
83. THIS TOLERANCE BY DEFENDANT MCGINNIS AMOUNT TO DELIBERATE INDIFFERENCE WITH REGARD TO THE SUPERVISION AND DISCIPLINE OF HIS SUBORDINATE CORRECTIONAL OFFICERS.
84. THE CLEAR UNCONTROVERTED EVIDENCE OF THE MALICIOUS AND SADISTIC ASSAULT UPON PLAINTIFF WAS PRESENTED TO DEFENDANT MCGINNIS. THE INVESTIGATION INTO PLAINTIFF'S GRIEVANCE COMPLAINTS PURSUANT TO NYRR 701.11(b)(2) BY DEFENDANT MCGINNIS HE BOLDLY IGNORED THAT EVIDENCE AND ARROGANTLY REFUSED TO SEARCH FOR ANSWERS, ACCEPTED WITHOUT QUESTION DENIALS BY INVOLVED CORRECTIONAL OFFICERS, SERGEANTS AND NURSES AND CONCLUDED ~~THE~~ THAT PLAINTIFF'S CLAIMS WERE NOT 'ONLY' WITHOUT MERIT, BUT UNSUBSTANTIATED.
85. DEFENDANT MCGINNIS'S INVESTIGATIONS ARE PREMISED ON ARBITRARY AND MALICIOUS BIAS AND PARTIAL LESS THAN VIGOROUS PROLESS OF INVESTIGATOR RELYING ON STAFF STATEMENTS ALONE AS EVIDENCE FOR INVESTIGATION.

86. SUCH TOLERANCE BY DEFENDANT MELVINIS IN THE FORM OF FAILURE TO INVESTIGATE DISCIPLINE OR CORRECT VIOLATIONS SUGGESTS AN ADOPTION OF A POLICY SUPPORTING VIOLATIONS SUPERVISORY INACTION SUCH AS THE PERSISTENT FAILURE TO DISCIPLINE SUBORDINATES WHO VIOLATED PLAINTIFF'S CIVIL RIGHTS GIVE RISE TO AN UNLAWFUL SUPERVISORY POLICY RATIFICATION OF UNCONSTITUTIONAL CONDUCT.
87. THIS TOLERANCE BY DEFENDANT MELVINIS AMOUNTED TO DELIBERATE INDIFFERENCE WITH REGARD TO THE SUPERVISION AND DISCIPLINE OF HIS SUBORDINATE CORRECTIONAL OFFICERS IS "CONDUCT WHICH 'SUBJECTS, OR CAUSES TO BE SUBJECTED' THE COMPLAINANT TO A DEPRIVATION OF A RIGHT SECURED BY THE CONSTITUTION AND LAWS."
88. DEFENDANT GILNER AS PARTY TO BARNES V. ALVES 01-CV-6559 IN RETALIATION HAD A SUFFICIENTLY CULPABLE STATE OF MIND IN HIS FAILURE TO PROTECT PLAINTIFF FROM SUBSTANTIAL RISK OF SERIOUS HARM ON UNSUPERVISED CORRIDOR BY D. MADRANTONIO JR AFTER BEING PLACED ON NOTICE OF 9/4/02 INCIDENT THROUGH COMPLAINTS, RESTRAINT SHIELD AND DEPRIVATION ORDER REVIEW APPEALS AND GRIEVANCE 24724 AND HE DEFENDANT GILNER DISREGARDED THE EXCESSIVE RISK TO PLAINTIFF'S HEALTH OR SAFETY ON OCT. 22, 2002. SEE GRIEVANCE SP1-24724 (ACTION REQUESTED: "(1) ALL MOVEMENT OUTSIDE MY CELL BE RECORDED ON HAND-HELD CAMCORDER.")

89. DEFENDANT GILMER HAS BEEN PLACED ON NOTICE OF THE RETALIATORY ABUSIVE AND VIOLENT PROPENSITIES OF ~~OF~~ P. MASTRANTONIO JR. BY ~~BY~~ NUMEROUS COMPLAINTS ~~AND~~ GRIEVANCE INVESTIGATIONS, RESTRAINT ~~AND~~ DEPRIVATION AND ~~THE~~ SHIELD REVIEW ORDER APPEALS OVER MANY MONTHS, BUT FAILED TO TAKE DISCIPLINARY ACTION AGAINST THEM OR OTHERWISE TO CONTROL THEIR BEHAVIOR. SEE OCT. 29, 2002 COMPLAINT TO MESSRS MCGINNIS AND GILMER, SEE DEC. 12, 2002 RESTRAINT ORDER REVIEW APPEAL AND SEPT. 11, 2002 AND DEC. 31, 2002 LETTERS TO PLAINTIFF ~~THE~~ FROM MR. LECLAIRE JR.

90. DEFENDANT GILMER HAVE CONTINUED TO ENGAGE IN SOUTHPORT CORRECTIONAL FACILITY GROSS NEGLIGENT MANAGEMENT SUPERVISORY CUSTOM POLICY OR PRACTICE OF FAILURE TO PROPERLY TRAIN, SUPERVISE OR DISCIPLINE CORRECTIONAL OFFICERS THAT HAVE VIOLATED PLAINTIFF'S CIVIL RIGHTS PURPOSEFULLY ACTING IN BAD FAITH INTENTIONALLY CONTINUOUSLY IMPLEMENTING DEPRIVATION RESTRAINT AND SHIELD ORDERS WANTON AND RECKLESSLY TO SYSTEMATICALLY OPPRESS PLAINTIFF AND CAUSE MALICIOUS HARM TO HIM(ED).

91. DEFENDANT GORD HAS BEEN ON NOTICE OF THE RETALIATORY ABUSE ~~OF~~ AND VIOLENT PROPENSITIES OF DEFENDANTS MCINTOSH, MARSHALL AND P. MASTRANTONIO JR. THROUGH SWORN COMPLAINTS, RESTRAINT, SHIELD AND DEPRIVATION ORDER REVIEW APPEALS OVER NUMEROUS MONTHS



~~ABUSE~~ BY PLAINTIFF, BUT FAILED TO TAKE DISCIPLINARY ACTIONS AGAINST THEM OR OTHERWISE TO CONTROL THEIR BEHAVIOR ~~THE~~ EITHER REJECTION OF COMPLAINT OR ABSOLVING STAFF OF ALL MISCONDUCT WHEN SUCH ABUSE IS AS BLATANT AS HEREIN. SEE LETTERS FROM L.J. LECLAIRE JR ON BEHALF OF DEFENDANT GORD DATED SEPT. 11, 2002, OCT. 22, 2002, NOV. 12, 2002 AND DEC. 23, 2002; SEE ALSO OCT. 25, 2002 SWORN COMPLAINT TO GLEN'S GORD.

92. DEFENDANT GORD WAS AWARE OF FACTS AND CIRCUMSTANCES THAT EXISTED WITH PLAINTIFF AND DEFENDANTS AT SOUTHPORT AND THAT SUBSTANTIAL RISK OF SERIOUS HARM TO PLAINTIFF CONTINUED TO EXIST AS HE REMAINED INCARCERATED AT SOUTHPORT UNDER COMPLETE CARE CUSTODY & CONTROL OF DEFENDANT MCGINNIS WHOM AS PARTY TO BARNES V. ALVES 01-CV-6559 AND BARNES V. MCGINNIS INDEX NO. 2002-1030 IN RETALIATION HAD A SUFFICIENTLY WILKED CULPABLE STATE OF MIND IN HIS MCGINNIS DELIBERATE INDIFFERENCE FAILURE TO PROTECT PLAINTIFF FROM THE THREAT OR SUBSTANTIAL RISK OF SERIOUS HARM DOED TO HIM BY P. MASTRANTONIO JR. AND OTHER DEFENDANTS AT SOUTHPORT NAMED IN BARNES V. ALVES, AND DEFENDANT GORD'S DISREGARDING EXCESSIVE RISK TO PLAINTIFF'S HEALTH OR SAFETY INTENTIONALLY DELIBERATELY FAILING TO INTERVIEW AND TRANSFER PLAINTIFF PRIOR TO SEPT. 4, 2002 INCIDENT INVOLVING

DEFENDANT D. MASTRANTONIO JR. OR BEFORE OCT. 22, 2002  
 USE OF FORCE INCIDENT INVOLVING D. MASTRANTONIO JR.  
 IS "CONDUCT WHICH 'SUBJECTS, OR CAUSES TO BE SUBJECTED'  
 THE COMPLAINANT TO A DEPRIVATION OF A RIGHT  
 SECURED BY THE CONSTITUTION AND LAWS." see OCT. 24, 2002  
 LETTER TO M. MCGINNIS FROM PLS; see OCT. 24, 2002  
 LETTER TO C.A. COCCHIELLA FROM PLS; see ALSO NOV. 18, 2002  
 LETTER TO M. MCGINNIS FROM PLS AND; NOV. 4, 2002 LETTER  
 TO PLS FROM A.J. ANNUNCI.

COUNTY OF CHEMUNG AND DISTRICT  
 ATTORNEY'S OFFICE MUNICIPAL RACIAL  
 DISCRIMINATION CONSPIRACY DE FACTO  
 GOVERNMENTAL CUSTOMER PRACTICE

93. THE COUNTY OF CHEMUNG DISTRICT ATTORNEY'S OFFICE HAS NO  
 AFFIRMATIVE ACTION PROGRAM POLICIES IN EFFECT TO  
 EMPLOY A MINORITY ON ITS STAFF.
94. THE COUNTY OF CHEMUNG NEGLIGENT HIRING DE FACTO  
 GOVERNMENTAL POLICY OR PRACTICE OF HIRING ALL WHITE  
 STAFF EMPLOYEES OF CAUCASIAN DESCENT TO OPERATE DISTRICT  
 ATTORNEY'S OFFICE AND OFFICE'S DAILY FUNCTION BEING  
 AMIDST AN ATMOSPHERE DEVOID OF AN EMPLOYEE OF  
 MINORITY ETHNIC PERPETUATING RACIAL TENSION OR  
 PREJUDICES OF COUNTY OF CHEMUNG'S DISTRICT ATTORNEY  
 OFFICE PURSUING FELONY COMPLAINTS AGAINST AN

## AFRICAN AMERICAN RESIDENT IN CHEMMUNG COUNTY

95. THE PLAINTIFF FILED A FELONY COMPLAINT DATED SEPT. 5, 2002 SEEKING CRIMINAL CHARGES AGAINST CORRECTION OFFICER D. MASTRANTONIO JR. FOR ASSAULTING HIM COUNTY OF CHEMMUNG DISTRICT ATTORNEY'S OFFICE REJECTED THE COMPLAINT SIMPLY BECAUSE THE PLAINTIFF WAS INCARCERATED. SEE SEPT. 12, 2002 LETTER FROM HERMAN C. BROWN JR. INVESTIGATOR COUNTY OF CHEMMUNG DISTRICT ATTORNEY'S OFFICE.

96. THE PLAINTIFF FILED DUPLICATE LETTERS WITH FELONY COMPLAINTS INFORMING COUNTY OF CHEMMUNG DISTRICT ATTORNEY'S OFFICE THAT PLAINTIFF IS AN AFRICAN AMERICAN INCARCERATED WITHIN JURISDICTION OF THE CONTINENTAL UNITED STATES AND AS SUCH A RESIDENT OF U.S. I HAVE A RIGHT TO EQUAL PROTECTION OF LAWS ~~AS~~ AS PRESCRIBED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATE CONSTITUTION, SHOULD YOUR OFFICE FAIL TO INVESTIGATE COMPLAINT, CHEMMUNG COUNTY WILL BE DISCRIMINATING AGAINST ME BECAUSE MY LIFE IS IN DANGER," DATED OCT. 25, 2002 AND NOV. 18, 2002 SEEKING CRIMINAL CHARGES AGAINST CORRECTION OFFICER D. MASTRANTONIO JR FOR ASSAULTING THE PLAINTIFF FOR SECOND TIME AND ONCE AGAIN THESE COMPLAINTS WERE REJECTED FOR IDENTICAL REASONS. SEE NOV. 21, 2002 LETTER FROM HERMAN C. BROWN JR. INVESTIGATOR COUNTY OF CHEMMUNG DISTRICT ATTORNEY'S OFFICE.

97. DEFENDANT MUNICIPALITY COUNTY OF CHEMUNG DE FACTO GOVERNMENTAL CUSTOM POLICY OR PRACTICE OF, ACTING THROUGH ITS DISTRICT ATTORNEY'S OFFICE TO DEPRIVE BLACKS AND OTHERS OF THEIR CIVIL RIGHTS IN THE MANNER IN WHICH PLAINTIFF'S RIGHTS ARE ALLEGED TO HAVE BEEN VIOLATED.
98. REPEATED AND NOTORIOUS INCIDENTS OF A LIKE KIND REPORTED TO CHEMUNG COUNTY DISTRICT ATTORNEY'S OFFICE CONCERNING CORRECTION OFFICER D. MASTRANTONIO JR. BRUTALLY BEATING SOUTHPORT PRISONERS.
99. REPEATED FAILURES BY COUNTY OF CHEMUNG DISTRICT ATTORNEY'S OFFICE TO INVESTIGATE OR PURSUE ANY CRIMINAL CHARGES AGAINST CORRECTION OFFICERS FOR ASSAULTING SOUTHPORT PRISONERS.
100. REPEATED FAILURES BY COUNTY OF CHEMUNG TO TRAIN AND EDUCATE DISTRICT ATTORNEY AND ITS AGENTS ON PROPERLY PROCESSING COMPLAINTS FILED BY SOUTHPORT PRISONERS WITH ALLEGATIONS OF HAVING BEEN ASSAULTED BY SOUTHPORT CORRECTION OFFICERS.
101. REPEATED FAILURES OF COUNTY OF CHEMUNG DISTRICT ATTORNEY'S OFFICE TO CULL OUT KNOWN OFFENDERS AMONG SOUTHPORT CORRECTION OFFICERS.

102. REPEATED FAILURES OF COUNTY OF CHEMUNG DISTRICT ATTORNEY'S OFFICE TO BRING CRIMINAL CHARGES AGAINST SOUTHPORT CORRECTION OFFICERS ON BEHALF OF ASSAULTED BLACK AND HISPANIC PRISONERS.
103. DEFENDANT COUNTY OF CHEMUNG AND ITS ~~OR~~ DISTRICT ATTORNEY'S OFFICE AGENTS REPEATED AND DELIBERATE FAILURES TO FIND ~~WRONGDOING~~ <sup>SOUTHPORT</sup> AND CRIMINAL VIOLATIONS ON THE PART OF CORRECTION OFFICERS, EVEN WHEN SUCH WRONGDOING IS AS BLATANT AS THE FACTS HEREIN OR WORSE.
104. REPEATED INSTANCES ON THE PART OF COUNTY OF CHEMUNG DISTRICT ATTORNEY'S OFFICE AGENT INVESTIGATORS IN SUCH CASES EITHER ACTIVELY OR PASSIVELY TO COVER-UP AND ABSOLVE SUCH WRONGDOING ON THE PART OF SOUTHPORT CORRECTION OFFICERS.
105. THE DEFENDANT COUNTY OF CHEMUNG'S CUSTOM OR PRACTICE "HAS CREATED A PERSUASIVE FAMILIAR AND RECOGNIZABLE PATTERN OF CONDUCT ON THE PART OF MANY SOUTHPORT CORRECTION OFFICERS AND HAS GIVEN RISE DIRECTLY TO THE CONSTITUTIONAL DEPRIVATIONS OF THE PLAINTIFFS HEREIN."

RESTRAINT CELL SHIELD AND  
DEPRIVATION ORDER RETALIATION  
CONSPIRACY IMPLEMENTATION

106. DEFENDANTS GUTNER, WILLOX, WILTE, AUGUSTINE, WETZEL, SHUMAKER, HANNAH, MORSE AND MACKAY ~~Q~~ HAVE CONTINUED TO ACTIVELY PARTICIPATE IN A MALICIOUS AND WANTON COMPLEX SYSTEMATIC RETALIATION ~~AND~~ CONSPIRACY ~~AND~~ ~~THE~~ AGAINST THE PLAINTIFF FOR HIS ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT RIGHTS TO PETITION GOVERNMENT IN JUDICIAL FORMS IN LAWSUITS BARNES V. ALVES et al. 01-CV-6559 AND BARNES V. MCGINNIS et al. INDEX NO. 2002-1030 CONTINUOUSLY ARBITRARY AND CAPRICIOUSLY IMPLEMENTING VAGUE, RESTRAINT, SHIELD AND DEPRIVATION ORDERS TO CAUSE MALICIOUS HARM TO PLAINTIFF: (1) RESTRAINT, SHIELD, AND DEPRIVATION ORDERS BEING IMPUSED ON A WEEKLY BASIS UNDER PRETEXT OF FALSE MISLEADING STATEMENTS OF DEFENDANT SERGEANTS WETZEL, SHUMAKER, HANNAH, MORSE AND MACKAY; (2) FALSE MISBEHAVIOR REPORTS FILED IN RETALIATION BY DEFENDANT D. MASTRANTONIO JR. AGAINST PLAINTIFF FOR HIS CONTINUOUSLY ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT RIGHTS TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES 24724, 24915, 25086, 25206, 25610 AND LAWSUITS IN BOTH ADMINISTRATIVE AND JUDICIAL FORMS; (3) PLACING BLACK AND HISPANIC PRISONERS ON WATER AND EXERCISE DEPRIVATION FOR AN EXCESSIVE NUMBER OF DAYS AND WEEKS; (4) UNCONSTITUTIONALLY DEPRIVING PRISONERS ON RESTRICTED DIET OF WATER FOR SEVEN DAYS AT A TIME; (5) ENFORCING VAGUE CELL CLEAN-UP DEPRIVATION ORDERS ON PRISONERS FOR WEEKS AT A TIME WHICH SERVES ABSOLUTELY NO PENOLOGICAL JUSTIFICATION OTHER THAN TO INFRINGE ON PRISONERS'

EVERYDAY PRISON LIFE WITH UNSANITARY LIVING CONDITIONS. SEE RESTRAINT, SHIELD AND DEPRIVATION ORDER RENEWAL FORMS 2186, 2187 AND 2188 FROM OCT. 22, 2002 THRU 12/2/02.

107. THE PLAINTIFF WAS UNDER CONTINUOUS FULL MECHANICAL RESTRAINT ORDER FROM AUG. 10, 2002 TIL DEC. 23, 2002 ~~133~~ 133 CONSECUTIVE DAYS.

108. THE PLAINTIFF REMAINED UNDER CONTINUOUS RECREATION DEPRIVATION FOR ~~145~~ 145 CONSECUTIVE DAYS FROM JULY 2, 2002 TIL APPROXIMATELY NOV. 27, 2002.

109. DEFENDANT GILTNER'S GROSS NEGLIGENT MANAGEMENT OF SUBORDINATES CONTINUOUSLY ARBITRARILY CAPRICIOUSLY IN RETALIATION IMPLEMENTING EXCESSIVE RESTRAINT, SHIELD AND DEPRIVATION ORDERS UPON THE PLAINTIFF. SEE DEC. 12, 2002 RESTRAINT ORDER REVIEW APPEAL; SEE ALSO DEC. 31, 2002 AND SEPT. 11, 2002 LETTERS FROM MR. LUCIEN J. LECLAIRE JR.

110. AS A RESULT OF DEFENDANT'S ARBITRARY CAPRICIOUS RETALIATION IMPLEMENTATION OF VAGUE HARSH AND EXCESSIVE RESTRAINT SHIELD AND DEPRIVATION ORDERS UPON PLAINTIFF IT AGGRAVATED MULTIPLE PRE-EXISTING MENTAL AND PHYSICAL INJURIES, BODY ACHES AND PAINS, JOINT STIFFNESS, AGGRAVATION OF CUFF NEUROPATHY CONDITION, NASAL PROBLEMS, DECONGESTIVE PROBLEMS,

BREATHING PROBLEMS, NAUSEA, HUMILIATION & DEGRADATION, DUMPS PRESSURE STRESS & STRAIN, DIZZINESS, ABDOMINAL PAINS, SNEEZING, ITCHING OF NOSE, ITCHING OF THROAT, RECTAL PAINS, SHORTNESS OF BREATH, DIFFICULTY CONCENTRATING AND COMMUNICATING, SHOULDER PAINS, BACK PAINS, FLASHBACKS, AGGRAVATING PRE-EXISTING MILD DEPRESSIVE CONDITION, AGGRAVATING DISTAL TUBULIA AND VICARIOUS VEIN CONDITION IN BOTH LEGS, MODERATE POST-TRAUMATIC STRESS DISORDER, PARANOIA, DIZZY SPELLS, NERVOUS DISORIENTATION, NIGHTMARE, SERIOUS MENTAL PAINS, LASTING HYPERTENSION, DIFFICULTY WITH AUTHORITY, LASTING EMOTIONAL DISTRESS, DISTRUSTFUL PARANOIA FOR ALL LAW ENFORCEMENT OFFICIALS, ANXIETY ATTACKS, MENTAL ANGUISH, COLD SWEATS, SEVERE AVOIDANCE PROBLEMS, FEELINGS OF USELESSNESS, SHORT TERM MEMORY LOSS, SUBSTANTIAL WEIGHT LOSS, DEPRESSION STRESS GASTROINTESTINAL COMPLICATION, FEAR OF WHAT OTHERS THINK, FEELINGS OF EXTREME GUILT, INFUSION OF EMOTIONAL DISTRESS, NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS, CHRONIC INSECURE DEPRESSION, MUSCLE TENSION, DECREASE APPETITE, FATIGUE EASY, LACK OF MOTIVATION, FEELINGS OF INADEQUACY.

## DENIAL OF DUE PROCESS

III DEFENDANTS \* CARLSEN, MCGINNIS, AND ANNUNZI KNEW OF STATE DELINQUENT CUSTOM POLICY OR PRACTICE OF TARGETING BLACK AND HISPANIC PRISONERS WITH SYSTEMATIC MISTREATMENT TRANSGRESSIONS TO CAUSE MALICIOUS HARM TO THEM AND



ACQUIESCED IN HIS APPLICATION UPON PLAINTIFF INTENTIONALLY WILLFULLY DELIBERATELY ACTIVELY PARTICIPATING OR CONDOVING DESTRUCTION OF ESSENTIAL RELEVANT DOCUMENTARY SURVEILLANCE VIDEOTAPE EVIDENCE DEPICTING DEFENDANT P. MASTRANTONIO JR. MISCONDUCT IN CONNECTION WITH SEPT. 4, 2002 AND OCT. 22, 2002 USE OF FORCE INCIDENTS DESPITE PLAINTIFF FILING NOTICE OF THEIR OFFICES TO PRESERVE THE FOLLOWING VIDEOTAPES:

A. OCT. 22, 2002 B-BLOCK VIDEOTAPE IN FRONT OF B-1 GALLERY DEPICTING PLAINTIFF ENTER GALLERY AFTER EXITING HEARING ROOM ON OCT. 22, 2002 AND ALL MOVEMENT THEREAFTER IN FRONT OF B-1 GALLERY DURING OCT. 22, 2002 USE OF FORCE INCIDENT.

<sup>112.</sup>  
112. THE PLAINTIFF FILE NUMEROUS TIMELY NOTICE TO PRESERVE OCT. 22, 2002 VIDEOTAPE WITH DEFENDANTS. SEE SEPT. 21, 2002 LETTER TO DEF. MCGINNIS FROM PLT; SEE NOV. 1, 2002 APPEAL TO DEF. ANNUNCI; SEE ALSO DEC. 22, 2002; SEE DOCS MEMORANDUMS DATED NOV. 8, 2002, DEC. 4, 2002; SEE BRV. 24802

DELIBERATE INDIFFERENCE  
TO PLAINTIFF'S SERIOUS  
MEDICAL NEEDS

113. ~~DEFENDANT'S~~ DEFENDANT'S ALVES AND BRANDT ABILITY TO FUNCTION WITH DUE CARE PROFESSIONALISM CONCERNING TREATMENT OF PLAINTIFF'S SERIOUS MEDICAL NEEDS IS NOT 'ONLY' TAINTED WITH BIAS OF SOUTHPORT RACIAL ANIMUS DE FACTO GOVERNMENTAL CUSTOM POLICY OR PRACTICE MOTIVATION FACTOR BUT MOVED WITH DELIBERATE MALEVOLENT DIFFERENTIATION IN RETALIATION FOR HISENBRING IN CONSTITUTIONALLY PROTECTED CONDUCT RIGHTS TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES AND LAWSUITS IN BOTH ADMINISTRATIVE AND JUDICIAL FORMS CHALLENGING SOUTHPORT STAFF DELINQUENT CUSTOM POLICY OR PRACTICE OF TARGETING BLACK AND LATINO PRISONERS' WITH SYSTEMATIC MISTREATMENT TRANSGRESSIONS TO CAUSE MAELICIOUS HARM TO THEM. (SEE BARNES V. ALVES et al 01-CV-6559); (SEE BARNES V. MILBURN et al. INDEX NO. 2002-1030); (SEE ALSO GRIEVANCES SPT-24743-02, SPT-24778-02, SPT-24885-02, SPT-24956-02, SPT-25206-02 AND SPT-25247).

114. ON OCT. 22, 2002 DEFENDANT BRANDT FOR THE PURPOSE OF RETALIATION OR REVENGE CONTINUED TO INTENTIONALLY DELIBERATELY HIDEOUSLY CURTAIL PLAINTIFF'S AMBULATORY HEALTH RECORDS TO UNDERMINE THE EXTENT OF INJURIES HE SUSTAINED, AND FALSE MISLEADING DESCRIPTION OF INJURIES AND CHARACTERIZATION OF EXACTLY HOW PLAINTIFF SUSTAINED THOSE INJURIES. (SEE OCT. 22, 2002 USE OF FORCE ADDENDUM PART-B FORM #2104.1 "MINIMAL FORCE USED TO AVERT FURTHER UNHYGIENIC ACTS BY INMATE").

115. ON OCT. 23, 2002 DEFENDANT BRANDT APPROACHED THE PLAINTIFF'S CELL FOR SICK CALL AND MADE THE FOLLOWING STATEMENT BEFORE ABRUPTLY WALKING AWAY FROM MY CELL "HEY YOU SHOULD NOT BE SPITTING ON OFFICER MASTRANTONIO JR. AND THE OFFICERS WON'T KEEP USING FORCE ON YOU AND THERE'S NOTHING WRONG WITH YOU ANYWAY."

116. DEFENDANT BRANDT DENIED ME SICK CALL ON 10/23/02 AND REFUSE TO NOT MY SWOLLEN LEG AND SWOLLEN FACE.

117. DEFENDANT ALVES ENTERED INTO VERBAL CONTACT WITH PLAINTIFF ON OCT. 31, 2002 STATING "X-RAYS WILL BE DONE ON NOV. 5, 2002."

118. THE PLAINTIFF THEN STATED "DOCTOR ALVES I NEED TO LEAVE THIS JAIL CAN YOU RECOMMEND A TRANSFER."

119. DEFENDANT ALVES THEN MADE A CHALLENGING VENGEFUL STATEMENT "HUH YOU KIDDING THEY DON'T LISTEN TO ME THEY PAY ME ABOUT AS MUCH ATTENTION AS I PAY YOU WHEN YOU COME SEE ME."

120. DEFENDANT ALVES DELIBERATELY DID NOT X-RAY PLAINTIFF'S LEG TIL SEVERAL WEEKS AFTER NOV. 5, 2002 A FULL MONTH AFTER THE OCT. 22, 2002 USE OF FORCE INCIDENT WHEN

INFLAMMATION IN RIGHT LEG AND KNEE HAD DECREASED CONSIDERABLY.

121 DEFENDANT ALVES DID NOT X-RAY THE PLAINTIFF'S LEG FOR OVER A MONTH TO INTENTIONALLY PURPOSELY DELIBERATELY CONCEAL THE EXTENT OF THE INJURIES TO PLAINTIFF RIGHT LEG AND KNEE ON OCT. 22, 2002.

CONTINUED SUPERVISORY  
OFFICIAL GROSS NEGLIGENCE MANAGEMENT  
AND DELIBERATE INDIFFERENCE CUSTOM  
POLICY OR PRACTICE

122 DEFENDANT R. ROY THROUGH HIS JOE DOE AGENT INADEQUATE INVESTIGATION, THE INSPECTOR GENERAL'S PERFORMANCE EVIDENCES A PURPOSEFUL TOLERANCE OF CIVIL RIGHTS VIOLATIONS BY CORRECTIONS OFFICERS.

123 THIS TOLERANCE BY INSPECTOR GENERAL AMOUNTED TO DELIBERATE INDIFFERENCE WITH REGARD TO THE SUPERVISION AND DISCIPLINE OF ITS ~~OTHER~~ CORRECTION OFFICERS.

124. CLEAR UNCONTROVERTED EVIDENCE OF ~~AN~~ ASSAULT UPON PLAINTIFF BY DEFENDANT BANKS, DIMAS/DANIELLO JR. AND WOOD WAS PRESENTED TO JOHN DOE AGENT AND R. ROY, INSPECTOR GENERAL OF NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES.

125. THE INVESTIGATION INTO PLAINTIFF'S COMPLAINT TO THE INSPECTOR GENERAL BOLDLY IGNORED THAT EVIDENCE, ARROGANTLY REFUSED TO SEARCH FOR ANSWERS, ACCEPTED WITHOUT QUESTION DENIALS BY INVOLVED CORRECTION OFFICERS. AND CONCLUDED THAT THE CLAIMS WERE NOT ONLY UNSUBSTANTIATED, BUT WITHOUT MERIT.
126. SUCH TOLERANCE IN THE FORM OF FAILURE TO INVESTIGATE, DISCIPLINE OR CORRECT VIOLATIONS SUGGESTS AN ADOPTION OF A POLICY SUPPORTING SUCH VIOLATIONS.
127. ON OR ABOUT OCT. 27, 2002 THE PLAINTIFF WAS INTERVIEWED BY A JOHN DOE, INVESTIGATOR FROM INSPECTOR GENERAL'S OFFICE ~~IN THE~~ AT SOUTHPORT CORRECTIONAL FACILITY IN B-BLOCK FIRST FLOOR INTERVIEW ROOM.
128. THE PLAINTIFF STATED "D. MARIKAWENTO JR. JUST ASSAULTED ME AGAIN ON OCT. 22, 2002 WHILE I WAS IN FULL MECHANICAL RESTRAINTS AS SOON AS I WALK ON B-1 GALLERY OUT OF VIEW OF CAMERA, SO MAKE SURE YOU GET THAT VIDEOTAPE CAUSE THEY ARE GOING TO TRY TO DESTROY IT."
129. THE DEFENDANT JOHN DOE, INVESTIGATOR THAT WAS INTERVIEWING PLAINTIFF ON OR ABOUT THIS OCT. 27, 2002 DATE STATED "I AM NOT CONCERNED WITH WHAT? D. MARIKAWENTO JR. DID TO YOU ON OCT. 22, 2002, ONLY

WHAT P. MASTRANTONIO JR. DID TO YOU ON SEPT. 4, 2002  
NOTHING ELSE."

130. THE INVESTIGATION BY THE JOHN DOE, INVESTIGATOR ON OR  
ABOUT OCT. 27, 2002 WAS PREMISED ON ARBITRARY MALICIOUS  
AND BAD-FAITH FLAWED WITH BIAS INVESTIGATORY  
PROCESS OF RELYING ON CORRECTION OFFICERS STATEMENTS  
ALONE FOR INVESTIGATION, NO ONE WAS CHARGE IN LIGHT  
OF NUMEROUS INJURIES SUSTAIN BY PLAINTIFF IN BOTH  
INCIDENTS WHILE DEFENSELESS IN MECHANICAL RESTRAINTS  
IN THE CUSTODY OF DEFENDANT P. MASTRANTONIO JR. ON  
SEPT. 4, 2002 AND OCT. 22, 2002, NO ONE WAS DISCIPLINED,  
ALL OFFICERS CLEARED DESPITE THE PHOTOGRAPHS DEPICTING  
THE BLOODY BRUTALLY BEATEN PLAINTIFF AND CONCLUDED  
THAT THE CHARGES WAS UNSUBSTANTIATED AND WITHOUT  
MERIT. SEE COPY OF ANNEXED SEPT. 4, 2002 PHOTOGRAPHS OF PLAINTIFF

131. THE FAILURE OF DEFENDANT R. ROY TO PROPERLY TRAIN AGENT  
INVESTIGATORS ON INVESTIGATING INCIDENTS THAT ARE  
RELEVANT EVIDENCE IN SITUATIONS WHERE A CORRECTION  
OFFICER IS INVOLVED IN MULTIPLE USES OF FORCE'S  
UPON A PRISONER COMPLAINT ON MULTIPLE OCCASIONS,  
AS IN THIS CASE ON SEPT. 4, 2002 AND OCT. 22, 2002.

132. NO INVESTIGATION WAS EVER CONDUCTED ON THE  
OCT. 22, 2002 INCIDENT DESPITE R. ROY HAVING  
NOTICE OF THAT INCIDENT ALSO.

133. DEFENDANT R. ROY HAS CONTINUED TO ACQUIESCE IN THE SOUTHERN CORRECTIONAL FACILITY UNCONSTITUTIONAL GROSS NEGLIGENT MANAGEMENT SUPERVISORY CUSTOMARY POLICY OR PRACTICE OF FAILURE TO PROPERLY TRAIN AND SUPERVISE AGENT INVESTIGATORS OR DISCIPLINE CORRECTION OFFICER DEFENDANT D. MASTRANTONIO JR THAT HAS ACTED WITH INTENTION AND RECKLESS DISREGARD TO SOUTHERN PRISONERS' CIVIL RIGHTS.

134. THIS TOLERANCE BY DEFENDANT ROY AMOUNTED TO DELIBERATE INDIFFERENCE WITH REGARD TO THE SUPERVISION OF HIS AGENT INVESTIGATORS AND DISCIPLINE OF D. MASTRANTONIO JR CORRECTION OFFICER IS "CONDUCT WHICH 'SUBJECTS, OR CAUSES TO BE SUBJECTED' THE COMPLAINANT TO A DEPRIVATION OF A RIGHT SECURED BY THE CONSTITUTION AND LAWS."

### CLAIMS FOR RELIEF

135. THE ACTIONS OF DEFENDANTS, D. MASTRANTONIO JR., BANKS, VANDERGRIFT, DAVIS, KNAPP, WILBUR, ROGERS, STAMP, BARSTON, ~~AND~~ DALUCH, WHITE, CHALK, MCINTOSH, MURSE, RAUB, DUNAHUE AND WETZEL IN USING PHYSICAL FORCE AGAINST THE PLAINTIFF WITHOUT NEED OR PROVOCATION, OR IN FAILING TO INTERVENE TO PREVENT THE EXCESSIVE USE OF FORCE, WERE DONE MALICIOUSLY AND SADISTICALLY AND CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

136. THE FAILURE OF DEFENDANTS MCGINNIS, GILTEVER, COORD, COUNTY OF CHEMUNG AND R. ROY GROSS NEGLIGENCE MANAGEMENT SUPERVISORY CUSTOM POLICY PRACTICE OF FAILING TO PROPERLY TRAIN, SUPERVISE OR DISCIPLINE EMPLOYEES P. MASTRANTONIO JR., BANKS, WILBUR, KNAPP, DAVIS, BARSTEN, ROGERS, STAMP, DALUCH, CHALK, MCINTOSH, VANDEGRIFT, MORSE, RAUB, WETZEL, MACKAY, HANNAH, SHUMAKER, AUGUSTINE, DONAHUE, WILCOX, WATZ, DISTRICT ATTORNEY AND AGENT INSPECTOR GENERAL INVESTIGATORS CONSTITUTED DELIBERATE INDIFFERENCE AND CONTRIBUTED TO AND PROXIMATELY CAUSED THE ABOVE DESCRIBED VIOLATION OF EIGHTH AMENDMENT RIGHTS AND ASSAULT AND BATTERY

137. THE ACTIONS OF DEFENDANTS MASTRANTONIO JR., BANKS, WILBUR, KNAPP, DAVIS, BARSTEN, ROGERS, STAMP, DALUCH, WHITE, CHALK, MCINTOSH, VANDEGRIFT, MORSE, RAUB, WETZEL, MACKAY, B. CADEL, HANNAH, SHUMAKER, AUGUSTINE, DONAHUE, WILCOX AND WATZ ACTIVE PARTICIPATION IN A CONSPIRACY AGAINST THE PLAINTIFF IN RETALIATION FOR PURSUING CONSTITUTIONALLY PROTECTED CONDUCT RIGHTS TO PETITION GOVERNMENT FOR REDRESS OF GRIEVANCES, COMPLAINTS AND LAWSUITS BARNES V ALVES AND BARNES V MCGINNIS IN BOTH ADMINISTRATIVE AND JUDICIAL FORMS DENIED THE PLAINTIFF THE DUE PROCESS OF LAW IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.



138. THE ACTIONS OF DEFENDANTS COUNTY OF CHAMUNG, R. ROY, G.S. GOORD, MCGINNIS AND GILTNER PURPOSEFUL TOLERANCE OF STAFF UNCONSTITUTIONAL CUSTOM, POLICY OR PRACTICE OF RACIALLY DISCRIMINATING AGAINST THE MAJORITY PLAINTIFF TARGETING HERM IN RETALIATION OR REVENGE FOR HIS ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT WITH SYSTEMATIC MISREATMENT TRANSGRESSIONS, CONSTITUTED DELIBERATE INDIFFERENCE AND FURTHER DENIED THE PLAINTIFF THE DUE PROCESS OF LAW IN VIOLATION OF THE FIRST ~~AND~~ AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

139. THE ACTIONS OF DEFENDANTS GOORD, MCGINNIS AND GILTNER FAILURE TO PROTECT THE OCT. 22, 2002 ATTACK BY DEFENDANT P. MASTRANTONIO JR. AFTER BEING ON NOTICE AFTER SEP. 4, 2002 INCIDENT ~~AND~~ THAT CAUSED THE VIOLATION OF PLAINTIFF'S CIVIL RIGHTS ON BOTH OCCASIONS CONSTITUTED DELIBERATE INDIFFERENCE, AND CONTRIBUTED TO AND PROXIMATELY CAUSED THE ABOVE DESCRIBED VIOLATION OF EIGHTH AMENDMENT RIGHTS AND ~~AND~~ DENIED THE PLAINTIFF THE EQUAL PROTECTION OF THE LAWS IN VIOLATION OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

140. THE ACTIONS OF DEFENDANTS GROVER, MCGINNIS AND ANNUNCEZ IN WILLFULLY DELIBERATELY ACTIVELY PARTICIPATING OR CONDONING DESTRUCTION OF DOCUMENTARY SURVEILLANCE VIDEOTAPE ~~AND/OR~~ ~~AND/OR~~ DEPICTING RELEVANT EVIDENCE TO SUPPORT PLAINTIFF'S CLAIMS OF P UNLAWFUL AND TR MISCONDUCT CONSTITUTED DELIBERATE INDIFFERENCE IN VIOLATION OF EIGHTH AMENDMENT AND DENIED THE PLAINTIFF THE DUE PROCESS OF LAW IN VIOLATION OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

141. THE FAILURE OF DEFENDANT BRANDT TO PROPERLY DOCUMENT THE EXTENT OF THE INJURIES PLAINTIFF SUSTAINED IN HIS AMBULATORY HEALTH RECORDS AND PERFORM HIS PRIMARY DUTIES OF PROVIDING PLAINTIFF WITH ROUTINE MEDICAL CARE IN RETALIATION OR REVENGE FOR THE PLAINTIFF ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT CONSTITUTES DELIBERATE INDIFFERENCE TO THE PLAINTIFF'S SERIOUS MEDICAL NEEDS IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

142. THE FAILURE OF DEFENDANT PALVES TO PROVIDE THE PLAINTIFF WITH ADEQUATE MEDICAL TREATMENT AN INTENTIONALLY DISREGARDING PLAINTIFF'S NEED FOR X-RAYS ON HIS RIGHT LEG AND KNEE ~~TO~~ FOR OVER A FULL MONTH TO COVER-UP AND CONCEAL INJURIES

PLAINTIFF SUSTAINED DURING OCT. 22, 2002 USE OF FORCE IN RETALIATION FOR ENGAGING IN CONSTITUTIONALLY PROTECTED CONDUCT CONSTITUTES DELIBERATE INDIFFERENCE TO THE PLAINTIFF'S SERIOUS MEDICAL NEEDS IN VIOLATION OF THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND DENIED THE PLAINTIFF THE RIGHT TO PETITION THE GOVERNMENT FOR REDRESS OF GRIEVANCES AND THE EQUAL PROTECTION OF LAWS IN VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

WHEREFORE, PLAINTIFF PRAY THAT HE BE GRANTED COMPENSATORY AND PUNITIVE DAMAGES RELIEF IN THE SUM OF TWO MILLION DOLLARS \$2,000,000 AND GRANT SUCH OTHER RELIEF AS IT MAY APPEAR THAT PLAINTIFF IS ENTITLED.

DATED: NOV. 18, 2003  
~~ROBERT J. BARNES~~  
 MALONE NEW YORK

Respectfully submitted  
~~ROBERT J. BARNES~~  
 JESSIE J. BARNES 9781784  
 UPSTATE CORRECTIONAL FACILITY  
 P.O. Box 2001  
 MALONE NEW YORK 12953

VERIFICATION

STATE OF NEW YORK ) S.S.  
COUNTY OF FRANKLIN )

~~DE~~

JESSIE J. BARNES, BEING DULY SWORN DEPOSES AND SAYS:

THAT HE IS THE PLAINTIFF IN THE WITHIN PROCEEDING;  
THAT HE HAS READ THE FOREGOING 42 U.S.C. § 1981, 1983,  
1985 (3) AND 1986 PRISONERS' CIVIL RIGHTS COMPLAINT  
AND KNOW THE CONTENTS THEREOF; THAT THE SAME IS TRUE  
TO HIS OWN KNOWLEDGE EXCEPT AS TO THOSE MATTERS  
ALLEGED THEREIN ON PERSONAL KNOWLEDGE AND THAT  
AS TO THOSE MATTERS HE BELIEVES THEM TO BE TRUE.

SWORN TO BEFORE ME THIS  
10 DAY OF NOV, 2003

John Marinelli  
NOTARY PUBLIC

JOHN MARINELLI  
Notary Public, State of New York  
No. 0114606055  
Qualified in Franklin County  
Commission Expires October 30, 2006

Jessie J. Barnes  
JESSIE J. BARNES 4781784  
STATE CORRECTIONAL FACILITY  
P.O. BOX 2001  
MALONE NEW YORK 12953